



Thomas A. Schatz
President

Chairman Julius Genachowski
Commissioner Mignon Clyburn
Commissioner Michael J. Copps
Commissioner Robert McDowell
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

August 16, 2011

Dear Chairman Genachowski and Commissioners:

Citizens Against Government Waste (CAGW) is writing in response to the Federal Communications Commission's (FCC) request for comment on the National Cable and Telecommunications Association (NCTA) petition regarding Section 652 of the Communications Act, Docket No. WC 11-118. We respectfully submit that the FCC should clarify that the cross-ownership restriction in Section 652 applies only to incumbent local exchange carriers (ILECs) and incumbent cable operators, and does not apply to transactions between cable operators and competitive local exchange carriers (CLECs). CAGW is a private, non-partisan, nonprofit organization representing more than one million members and supporters nationwide.

The enactment of the Telecommunications Act of 1996 (1996 Act) created a new era of competition among providers in the telecommunications services industry spurred by deregulation. In passing the 1996 Act, Congress sought to promote competition in the local telephone services market by creating an opening for CLECs to emerge in exchange for allowing ILECs to provide long distance services. Several new CLECs were launched in the years immediately following passage of the 1996 Act. However, in the 15 years since enactment, many of these CLECs have failed, reducing competition in local telephone services.

In the interest of prohibiting ILECs and traditional cable providers from merging and thereby concentrating control of the "last mile" infrastructure in a single entity, Congress included Section 652 into the 1996 Act, which prohibited cross-ownership between cable operators and local exchange carriers. However, all evidence suggests that Congress intended this section to apply only to ILECs, as CLECs do not provide a last-mile wire into the home.

Ironically, as CLECs continue to fail, it is the application of Section 652 restrictions to cable-CLEC transactions that prevent competition in the local phone services marketplace. Allowing cable operators to merge with CLECs will combine CLECs' operational and marketing experience with cable operators' financial resources to provide high quality competition to the

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phone services offered by ILECs. Clarifying that the cross-ownership restriction in Section 652 does not apply to cable-CLEC transactions will promote that competition.

More generally, when government dictates which companies can merge together, consumers are harmed by fewer choices and higher prices. The free market is a far better creator of competition than government, and therefore in this case it will benefit consumers if government simply steps out of the way of cable-CLEC transactions.

CAGW urges the FCC to recognize the realities of the current marketplace and to act consistently with the intent of Congress by clarifying that the cross-ownership restrictions in Section 652 only applies to transactions between incumbent LECs and incumbent cable operators, and do not prohibit cable operator-CLEC transactions.

Sincerely,

A handwritten signature in black ink that reads "Thomas Schatz". The signature is written in a cursive, slightly slanted style.